

ZONING BOARD OF APPEALS
Tuesday, June 15, 2010
6:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Present:

ZBA Members: Aaron Magdziarz
Alicia Neubauer
Dennis Olson
Dan Roszkowski
Julio Salgado
Scott Sanders
Craig Sockwell

Absent:

Staff: Jennifer Cacciapaglia – City Attorney
Todd Cagnoni - Deputy Director, Construction Services
Sandra Hawthorne – Administrative Assistant
Jon Hollander – City Engineer, Public Works
Mark Marinaro – Fire Prevention

Others: Alderman Bill Robertson
Kathy Berg, Stenographer
Applicants and Interested Parties

Sandra Hawthorne explained the format of the meeting will follow the Boards Rules of Procedure generally outlined as follows:

The Chairman will call the address of the application.

- The Applicant or representative are to come forward and be sworn in.
- The Applicant or representative will present their request before the Board
- The Board will ask any questions they may have regarding this application.
- The Chairman will then ask if there are any Objectors or Interested Parties. Objectors or Interested Parties are to come forward at that time, be sworn in by the Chairman, and give their name and address to the Zoning Board secretary and the stenographer
- The Objector or Interested Party will present all their concerns, objections and questions to the Applicant regarding the application.
- The Board will ask any questions they may have of the Objector or Interested Party.
- The Applicant will have an opportunity to rebut the concerns, answer questions of the Objector or Interested Party
- No further discussion from the Objector or Interested Party will occur after the rebuttal of the Applicant.
- The Board will then discuss the application and a vote will be taken.

It was further explained to the public in attendance, applicants, objectors and interested parties that this meeting is not a final vote on any item. The date of the Codes & Regulations meeting was given as Tuesday, June 28, 2010, at 4:30 PM in Conference Room A of this building as the second vote on these items. The public in attendance, applicants, objectors and interested parties were instructed that they could contact Sandra Hawthorne in the Zoning Office for future information and that her phone number

was listed on the top of the agenda which was made available to all those in attendance at the beginning of the meeting. The City's web site address for minutes of this meeting are listed on the agenda as well.

A **MOTION** was made by Craig Sockwell to **APPROVE** the minutes of the May 18th, meeting as submitted. The Motion was **SECONDED** by Dennis Olson and **CARRIED** by a vote of 5-0 with Aaron Magdziarz and Scott Sanders abstaining as they were not in attendance at the May meeting.

ZBA 016-10

Applicant
Ward 14

4750 Hydraulic Dr, 47XX American Rd & 4738 American Rd

Jon Shain

Variation to reduce the front yard setback from thirty (30) feet to five (5) feet for an eight foot (8') tall fence along Gunnard Drive and American Road in a I-1, Light Industrial Zoning District

Jon Shain, Applicant, reviewed his request for Variation. He explained the fence that is in existence was constructed in the incorrect location by his employees. He stated if he has to relocate this fence it will put him out of business. He stated IDOT regulations are not violated by this fence and feels there are no detrimental effects if this request is granted.

Mr. Sanders stated the fence application in 2009 signed by the Applicant was at the appropriate setback and a permit was issued for this fence, as well as stating it would be a chain link fence in the side yard. The Applicant agreed that the fence was constructed at a different setback as approved by the permit, and the fence was constructed with wood and not chain link. He estimates it would cost him \$10,000 to have his employees move the fence. Mr. Sanders further explained that the hardship the Applicant feels would put him out of business is not caused by the City but rather that the fence was not constructed in the location as the Applicant put on the permit. Mr. Sanders also stated he did not see why a fence with a value of \$2,000 as claimed on the application would cost \$10,000 to be moved by the Applicant's own employees. When asked what the reason was for an 8 foot fence, Mr. Shain stated it was for privacy and security for outside storage.

Mr. Hollander asked if the asphalt was there originally and Mr. Shain stated it was not, that he had put the crushed asphalt down. Mr. Hollander asked if he received a permit to do this, to which Mr. Shain stated he did not.

For clarification purposes, Mr. Cagnoni explained this property is being cited for the parking area being constructed with prohibited material for outside storage, for drainage issues, for the fence, for not submitting plans to the City for this construction and further stated and that if the Applicant wishes to have outside storage he is required to come back before the Zoning Board.

Staff Recommendation was for Denial. Objectors or Interested Parties were present.

Chuck Cocoma, 4622 Hydraulic Road (Cody-Doc LLC) stated his property is directly west of the Applicant's. Mr. Cocoma stated the neighboring properties have called the City out on numerous occasions to cut weeds, trash overflowing dumpsters, and various other problems with the Applicant's property. He presented a Petition of objection with 9 signatures from nearby business owners along with detailed explanations of their past problems with the property as well as photographs of tall grass, garbage and tires on the property and some equipment. Mr. Cocoma went on to say that when Mr. Shain put the asphalt down it created a drainage problem for the area. Because of the semi truck traffic in the area, this 8' fence creates a dangerous situation due to visual problems because it is so close to the road. He further stated the Applicant's property is never maintained. A neighbor had to mow the lot because the neighborhood was so disgusted by the look of the property. After a storm, tree limbs hung down for 5 months and a neighbor finally had to trim them because the Applicant would not. They want the Applicant barred from outside storage, the fence removed, and the asphalt taken out.

Richard Todd, 4814 American Road (Todd Transit) stated he could not believe that this fence was created with approval. Mr. Todd feels the height of the fence makes his own property look like he is next to a junk yard. He feels this will effect property values. He further stated he cannot see oncoming traffic from his vehicle because of the fence being in the sight triangle.

John Casarotto, 4729 Hydraulic Road. (Rockford Precision Machine) stated he has never met the Applicant, but the Applicant's property is "disgusting". Mr. Casarotto stated the Applicant never mows the property, and never cleans it up. He informed the Board that his property value has gone down at least 50% because of the proximity of the Applicant's property. He further stated the Applicant hauls in items that would constitute a junk yard. Mr. Casarotto stated this fence is only 5' from the corner and vehicles cannot see oncoming traffic.

Alderman Bill Robertson was also present and spoke in objection to this application. He stated as the Alderman of this Ward he is also very much opposed to the Variation this Applicant is seeking. He stated quite some time ago the green space behind the property was completely taken out and a portion of the fence was being installed. He feels the Applicant knew the fence was not to code before finishing its construction, as this issue was brought to Staff's attention by Alderman Robertson at that time. The Applicant's asphalt has created a flooding effect, and was not an approved product for paving.

In rebuttal, Mr. Shain stated he could not deny there have been problems with the property, but that a lot of them were because he has not been there. He felt his property was a dumping area from other people and admitted he had not cleaned it up. He stated the neighbor that mowed the yard had agreed to mow the yard for him. Mr. Shain stated once he is there all the time hopefully these issues will disappear. When asked by Mr. Sanders when that time would be, Mr. Shain stated hopefully when the fence issue is resolved. Mr. Shain purchased this property in 1995 and but stated no one was actually at the location.

Mr. Sanders stated the site plan for the fence permit included with the application specifically shows the fence in a different location. He feels this location of the fence is more than a construction error and does not feel this situation is a hardship for the Applicant since it was created by the Applicant. Ms. Neubauer further pointed out that there is a problem with the sight-triangle as well.

A **MOTION** was made by Craig Sockwell to **DENY** the Variation to reduce the front yard setback from thirty (30) feet to five (5) feet for an eight foot (8') tall fence along Gunnard Drive and American Road in a I-1, Light Industrial Zoning District at 4750 Hydraulic Drive, 47XX American Road and 4738 American Road. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 7-0.

ZBA 016-10
Findings of Fact for a Variation
To Reduce the Front Yard Setback from Thirty (30) Feet to Five (5) Feet
For an Eight Foot Tall Fence Along Gunnard Drive and American Road
In An I-1, Light Industrial Zoning District at
4750 Hydraulic Road and 4767 American Road

Denial of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would not result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are not unique to the property for which the Variation is sought and are applicable, generally, to other property within the same zoning classification.

3. The purpose of this Variation is based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is not caused by this Ordinance and has been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does not comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 017-10
Applicant

Text Amendment
City of Rockford Legal Department
Amendments to:

- Article 91 Definitions
- 20-004 Allowed Uses
- 21-002 Allowed Uses
- 22-002 Allowed Uses
- 23-002 Allowed Uses
- 30-004 Mandatory Planned Unit Developments
- 30-007 Design Standards and Criteria
- 30-008 Procedure
- 40-002-K, -L, -M
- Article 91 General Terms

Mr. Cagnoni stated the intent of the proposed text amendment was to address issues that relate to wind and solar energy and how they are regulated within the Zoning Ordinance. Photos of various sizes of wind turbines were presented to clarify how they would look on the property. Mr. Cagnoni explained the experimental Met towers would be allowed for 60 days to evaluate the feasibility of these towers on a permanent basis.

Rhett Schaller, Rock Valley College student, stated he is in a codes and regulations class that is now working on the design and regulations of the wind energy system. He feels 60 days is too short a time to collect data to determine if the location was appropriate for accurate data and suggested a minimum of 4 months would give a more reliable data base. Mr. Cagnoni stated Staff appreciated Mr. Schaller's input and would give consideration to expanding this experimental time frame. He encouraged Mr. Schaller to contact him with further ideas or information he felt would be helpful.

With amendment to provide for expansion of the 60 day time period to whatever time period Staff sees fit.

A **MOTION** was made by Scott Sanders to **APPROVE** the Text Amendment as presented, with an amendment to provide for expansion of the 60 days evaluation time period to whatever time Staff sees appropriate. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 7-0.

Text Amendment is as follows:

REVIEW COMMENTS: The proposed text amendment additions, modifications, and clarifications are in effort to insert those uses that have commonly not been addressed within the City of Rockford Zoning Ordinance. Technological advances and other factors of alternative energy strategies the following text amendments have been set out to address the uses that relate to wind and solar energy and how they are regulated within the zoning ordinance. The final amendment is a change that addresses the process of the Planned Unit Development Final and Tentative designations. The proposed amendments include changes to subsections of the Zoning Ordinance as follows: (comments not part of the text amendment, but for clarification purposes)

WIND ENERGY REGULATIONS

Add Definitions to Article 91:

Wind Energy Conversion System (WCES): A system by which wind energy is converted to electricity including wind turbines, towers, support systems, blades and associated controls, and conversion electronics which has a rated capacity over 100 Kilowatts.

Wind Energy Conversion System – Small (SWCES): A system by which wind energy is converted to electricity including wind turbine, one tower, support system, blades and associated controls and conversion electronics which has a rated capacity of 10 to 100 Kilowatts or a system height of 35 feet or more.

Wind Energy Conversion System – Mini (MWCES): A system by which wind energy is converted to electricity including a wind turbine, one tower, support system, blades and associated control and conversion electronics which has a rated capacity of less than 10 kilowatts and a system tower height of less than 35 feet or mounted on a building with a height not to exceed 25 feet from the building roof.

Meteorological Tower or Met Tower: a structure designed to support the gathering of wind energy resource data, and includes the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period less than 60 days or for a time period as determined appropriate by Staff for either instantaneous wind information or to characterize the wind resource at a given time.

Wind Energy Conversion System Tower Height: The height above grade of the fixed portion of the tower, excluding the wind turbine itself.

Wind Energy Conversion System Site: All parcels and lots of land making up the Wind Energy Conversion System project.

Wind Energy Conversion System Perimeter: The outer boundaries of the Wind Energy Conversion System site.

Wind Energy Conversion System Project: All Wind Energy Conversion System, substations and ancillary facilities.

Wind Energy Conversion System Tower: The support structure to which the nacelle and rotor are attached.

Residential Districts

Add to Table 20-1, Other -Wind Energy Conversion System “PUD”, Wind Energy Conversion System-Small “S”, Wind Energy Conversion System-Mini “S”, Meteorological Tower “P”

Commercial Office, Limited, and General

Add to Table 21-1, Other -Wind Energy Conversion System "PUD", Wind Energy Conversion System-Small "S", Wind Energy Conversion System-Mini "PR", Meteorological Tower "P"

Commercial Urban Mixed Use District

Add to Table 22-1, Other -Wind Energy Conversion System "-", Wind Energy Conversion System-Small "S", Wind Energy Conversion System-Mini "PR", Meteorological Tower "P"

Industrial Districts

Add to Table 23-1, Other -Wind Energy Conversion System "PUD", Wind Energy Conversion System-Small "PR", Wind Energy Conversion System-Mini "PR", Meteorological Tower "P"

Amend Section 30-004 Mandatory Planned Unit Developments. Add 30-004- H, Wind Energy Conversion System.

Amend Section 30-007-A as follows: Applicant for planned unit developments other than applications for "wind energy conversion system", "traditional neighborhood developments".....

Add Section 30-007 E. Specific Standards of Planned Wind Energy Conversion System.

The Zoning Board of Appeals may recommend approval of a planned unit development for Wind Energy Conversion System for energy production in any zoning classification. The standards are intended to protect the public health safety and community welfare while allowing development of wind energy resources for commercial purposes. The planned unit development for the Wind Energy Conversion System may be approved if the following is satisfied:

1. The Wind Energy Conversion System Site is forty (40) acres or more in size. An existing principal structure does not preclude placement of a WECS.
2. The written summary of the project includes: a general description of the project, its approximate name plate generating capacity; potential equipment manufacturer (s) and type(s) of WECS; number of WECS towers, and name plate generating capacity of each WECS; the WECS height, diameter of the WECS (s) rotor(s) and description by the applicant, owner and operator including their previous WECS experience.
3. The site plan of the WECS site shows: boundaries of the project; location of each WECS tower guy lines and anchor bases (if any); all WECS structures including but not limited to the project substation, interconnect substation and location and voltage of any overhead transmission lines; property lines; setback lines; public access roads; location of all existing structures with their uses identified and land use, zoning, public roads and structures within one thousand feet (1,000) of the WECS site.
4. The WECS meets the requirements of the Federal Aviation Administration or other state or federal laws.
5. The WECS provide for the minimum setbacks as follows:
 - a. From Principal Structure(s): One thousand (1,000) feet from any Principal Structure. The distance shall be measured from the point of the Principal Structure foundation to the WECS tower closest to the center of the WECS tower foundation. The owner of the Principal Structure may waive this setback requirement but in no case shall a WECS tower be located closer to a Principal Structure than 1.10 times the WECS tower's height.
 - b. From public Roads, third party transmission lines and communication towers: 1.10 times the WECS tower's height.
 - c. From the property lines not part of the WECS site: All WECS towers shall be setback a distance of at least 1.10 times the WECS tower's height. The City may waive this setback requirement.
6. Submittal of a noise assessment including average and maximum noise levels at WECS perimeter. The WECS noise levels shall not exceed standards set by the Illinois Pollution

- Control Board for noise emissions. The applicant shall demonstrate compliance with noise requirements as part of the application.
7. The WECS shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from the Underwriters Laboratories (UL), Det Norske Veritas (DNV), Germanischer Lloyd Wind Energie (GL) or an equivalent third party.
 8. The appearance of the WECS surface shall be a non-reflective, unobtrusive white or grey color. No advertising signs or graphic design shall be permitted on the WECS.
 9. The WECS shall have the following safety measures:
 - a. All wiring between wind turbines and the wind energy facility substation shall be underground whenever possible.
 - b. WECS tower shall not be climbable up to fifteen (15) feet above ground level.
 - c. All access doors to WECS tower and electrical equipment shall be lockable.
 - d. Signs shall be posted warning of high voltage on WECS towers, electrical equipment and WECS site entrances.
 - e. All WECS shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
 10. The WECS lighting shall not be lighted except as required by the Federal Aviation Administration or other state or federal law.
 11. The use of public roads shall be identified to be used for transporting WECS or substation parts and/or equipment for construction, operation or maintenance of the WECS or substation(s) and shall:
 - a. Conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage; and
 - b. Submit an acceptable financial security in an amount determined to be appropriate to the City to be used for the purpose of repairing any damage to public roads caused by constructing, operating or maintain the WECS if not done by the WECS owner/operator when construction of the project is completed.
 12. The WECS is not installed in any location where its proximity with the existing fixed broadcasting, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. No WECS shall be installed in a location along major axis of an existing microwave communication link where its operation is likely to produce electromagnetic interference in the link's operation.
 13. The applicant shall demonstrate that the WECS will not interfere with the communications of the local emergency service providers, the City of Rockford and Winnebago County Emergency Telephone System .
 14. The applicant shall conduct and submit a shadow flicker study. The study shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations. The study shall identify problem areas where shadow flicker may interfere more than one (1) hour per day with residences and other existing uses and describe measures that shall be taken to eliminate or mitigate the problems. Any safety problems identified by the City Engineer caused by shadow flicker on roads shall be eliminated or mitigated.
 15. The applicant must provide a decommission plan to ensure that the WECS equipment is removed and land is restored to its previous use upon the end of the project's life. The decommission plan shall include:
 - a. Provisions describing the triggering events for decommissioning the WECS project.
 - b. Provision for the removal of structures, debris and cabling, including hose below surface.
 - c. Provision for the restoration of soil and vegetation.
 - d. An estimate of the cost of the decommission cost certified by a professional engineer or structural engineer.

- e. Financial assurance, acceptable to the City of Rockford, secured by the owner or operator, for the purpose of adequately performing decommissioning, in an amount equal to the professional engineer's certified estimate of the decommissioning cost.
 - f. Identification of and procedures for the City of Rockford to access the financial assurances.
 - g. A provision that the terms of the decommission plan shall be binding upon the owner or operator and any successors, assigns or heirs.
 - h. A provision that the City of Rockford shall have access to the site, pursuant to reasonable notice, to effect or complete decommissioning.
16. Submittal of an avian habitat study from a qualified professional, such as an ornithologist or wildlife biologist to determine if the WECS will have a substantial adverse impact on birds. Reasonable actions to mitigate such adverse impacts shall be identified.

Add Section 40-002-K Wind Energy Conversion System – Small (SWECS)

General Standards

1. SWECS shall be allowed as an accessory use on parcels of land one (1) acre or larger.
2. Tower height shall be thirty-five feet (35') to eighty feet (80').
3. All parts of the SWECS structure shall be set back a distance equal to 1.1 times the system height from the front, side and rear property lines; the principal structure; and any electric or other utility lines.
4. Noise levels shall not exceed standards set by the Illinois Pollution Control Board.
5. All SWECS shall conform to applicable industry standards of the American National Standards Institute (ANSI) and be approved by a small wind certification program recognized by the American Wind Energy Associations.
6. SWECS surface shall be a non-reflective, unobtrusive color (usually white or gray). No advertising signs or graphic designs shall be permitted on the SWECS. The manufacturer's identification with ratings is allowed.
7. All SWECS shall be un-climbable for fifteen feet (15') above ground level. A visible "High Voltage " warning sign shall be placed on the SWECS.
8. The SWECS shall not be lighted except as required by the Federal Aviation Administration or other state or federal law.
9. All county, state and national construction codes shall be followed.
10. The SWECS shall be intended for on-site electricity use. However, the SWECS may be connected to the commercial grid. Only one SWECS shall be allowed per site.
11. The applicant shall provide the SWECS manufacturer, name-plate generating capacity and height according to manufacturer.
12. Evidence that the local electric utility has been informed of the customer's intent to install an interconnected customer-owned generator.
13. Letter from the Federal Aviation Administration (FAA) stating that the SWECS complies with FAA regulations.
14. Structural and anchoring information certified by a professional structural engineer or design professional licensed by the State of Illinois.

Add Section 40-002-L Wind Energy Conversion System – Mini

General Requirements

1. MWECS shall be considered an accessory use.
2. Tower height shall be less than thirty-five feet 35' when freestanding and no more than 25 feet of above building roof in commercial and industrial districts and 10 feet above building roof in residential districts when located on the building.
3. All parts of the Mini WECS structure shall be set back a distance equal to 1.1 times the system height from the property lines. Mini WECS shall not be permitted in the front yard. When located on an existing building there shall be no setback.
4. Noise levels shall not exceed standards set by the Illinois Pollution Control Board.

5. All Mini WECS shall conform to applicable industry standards of the American National Standards Institute (ANSI) and be approved by a small wind certification program recognized by the American Wind Energy Association.
6. The Mini WECS Surface shall be a non-reflective, unobtrusive color (usually white or gray). No advertising signs or graphic designs shall be permitted on the Mini WECS. The manufacturer's identification with ratings is allowed.
7. All Mini WECS shall be un-climbable for fifteen feet (15') above ground level. A visible "High Voltage" warning sign shall be placed on the Mini WECS.
8. The Mini WECS shall not be lighted except as required by the Federal Aviation Administration or other state or federal laws.
9. The Mini WECS shall provide electricity for on-site use only. However, the Mini WECS may be connected to the commercial grid.
10. Evidence that the local electric utility has been informed of the customer's intent to install an interconnected customer-owned generator, if applicable.

SOLAR REGULATIONS

Add to Table 20-1, 21-1, 22-1 & 23-1 (all zoning districts) Other –Solar Collector “PR”

Add to definitions Article 91

Low slope roof: A roof with a slope of less than 4 inches vertically for every 12 inches horizontally, or less than 33 centimeters vertically for every meter horizontally.

Reflector: Any device designed or intended to reflect the sun's rays to a solar collector or designed to concentrate the sun's rays on a solar collector.

Snow load: The greatest weight of snow to be anticipated from any snowfall in the City, to be calculated from United States Weather Bureau statistics.

Solar Cell: Any device designed or intended to produce electricity directly from the energy of sunlight, without moving parts.

Solar collector: Any device designed or intended to collect energy from the sun and use that energy to heat air, gas or liquid to be transmitted through pipes or ducts for heating or energy purposes. A window letting sunlight directly into a room to be heated is not a solar collector.

Solar component: Any solar collector, solar engine, reflector, pipe, duct or other component of a system using solar collectors or solar engines.

Solar energy engine: Any device designed or intended to produce motion from heat generated by sunlight; such motion may be turning a wheel, pulley or gear, or by moving a shaft back and forth. The motion may be produced by a sterling engine, a steam engine, or any mechanical device using heat and light from the sun.

Solar panel: A solar collector in the shape of a panel, regardless of the thickness of the panel.

Wind load: Pressure of wind against any object or structure, such as a solar collector.

Add Section 40-002-M Solar Collectors

General requirements

1. Any solar collectors shall be installed either on the roof of the principal structure or accessory structure or shall be otherwise incorporated into and made an integral part of the main building itself. The maximum height and set-back regulations of the zoning district in which it is proposed shall be observed.

2. No solar collector, solar engine or accessories, pipes or ducts for any solar collector or shall be installed on any roof having a slope of less than one percent (one-eighth of an inch per foot or 1 centimeter per meter).
3. Installations on low sloped roofs shall comply with the following requirements:
 - a. Clearances: All collectors, reflectors, engines, pipes, ducts and other components shall have sufficient clearance between the roof and the installation to permit roof repairs to be made and to permit circulation of air to avoid constant dampness, considering the configuration and location of the solar components and the roof. A space of 2 feet or 61 centimeters shall be adequate clearance in all instances, provided that a smaller space shall be permitted if it can be demonstrated that all normal repairs and resurfacings of the roof may be made under the proposed clearances. The clearances required herein shall not apply to vertical pipes installed through the roof surface or installed outside of the outside walls to provide access to solar components.
 - b. Load capacity: No solar component shall be installed on any roof unless the roof has sufficient capacity to hold the weight of the roof, the weight of the solar components and the anticipated snow load. Load requirements must meet the City of Rockford's adopted building code with amendments. The weight of fluid to be used in any panels, pipes or other components will be included in the calculations of load. In determining the anticipated snow load, the effect of the solar components on causing drifting shall be considered. If the rated capacity of the roof structure is at least one and one-half times the weight of the roof components, the solar components and the anticipated snow load, the roof structure shall be deemed to have sufficient load capacity.
 - c. Protection from drifting or sliding snow: On any installation where solar collectors, solar engines and reflectors may cause snow to drift on a roof, provisions shall be made by snow fences, chutes or other barriers to prevent snowdrifts from accumulating on the roof. Wherever a solar collector, or other solar component may cause snow to slide, the part of the roof where the snow may accumulate as a result of sliding shall have sufficient capacity to hold the weight of the snow anticipated to accumulate because of sliding. Wherever the location and slope of a solar collector or other solar component may cause snow to slide onto any doorway, sidewalk or other place used by pedestrian traffic, protection in the form of chutes, awnings or other devices shall be provided to prevent any snow from sliding onto any such doorway, sidewalk or other place.
 - d. Roof penetration: Wherever any pipe, duct or other solar component penetrates the surface of a roof, the roof shall be protected from leaks in the manner provided for any stack, pipe, or conduit penetrating the roof surface.
 - e. Roof preparation: Before any solar component is installed, the roof shall be inspected and any repairs and maintenance work needed shall be done to put the roof in leak proof condition.
4. All of the requirements for installations on low sloped roofs shall apply to installations on roofs other than low sloped roofs, except that in lieu of clearance from the roof, a solar panel may be attached flush to the roof. Such solar panel may be an integral part of the roof, providing a waterproof cover, with a waterproof seal between the panel and the rest of the roof. If such panel is not made an integral part of the roof but is attached flush with the roof, the top and sides of the panel shall be sealed where they meet the roof surface or shingles, to prevent water from getting under the panel.
5. Any roof over three stories above the ground shall be provided with a means of access other than an outside ladder against an outside wall. No solar components shall be installed in a location so as to interfere with walkways on any roof.
6. Each solar component which may contain any liquid or gas shall be designed and constructed to prevent the leakage of any liquid or gas under any combination of temperature and pressure possible either during use or when the system is not in use.

7. Each solar collector, solar panel and solar engine shall be securely anchored to withstand the maximum wind pressure anticipated, considering the effects, if any, of the solar components in channeling wind, and without considering the weight of any liquid in the components.
8. Each solar collector, reflector, solar engine and all solar components shall be inspected at least once every two years. Such inspections shall be at the owners expense, and may be made by any qualified person selected by the owner. The inspection shall include looking for any evidence of dampness on the roof due to shading, lack of air circulation or leaks, and shall include examining the structural parts securing all components. The Zoning Officer may request a certified report of such inspection to be provided by the owner/applicant. If such request is required by the Zoning Officer it shall be in writing and provided by the owner/applicant within 30 days.
9. Nothing in this ordinance shall be interpreted as prohibiting any innovative design. Any design not specifically permitted by this ordinance may be installed, upon a showing that the proposed system of solar components will achieve the safety objectives and structural objectives of the provisions of this ordinance.
10. Nothing herein contained nor any permit issued hereunder, shall be constructed to restrict or limit the use and development of any adjoining or other premises.`

OTHER AMENDMENTS

30-008-A, Add to the endtentative plat review "or proceed to final plat review in accordance with the public notice requirements for a special use consistent with Article 63 and all the required information and requirements of a PUD/Final Plat as set forth within this ordinance."

ZBA 012-10

Applicant
Ward 10

280 North Phelps Avenue, Unit E

Louis Messina / Secrets Apparel & Gifts Inc.

Special Use Permit for the operation of a sexually-oriented bookstore business in a C-3, General Commercial Zoning District
Laid Over from May meeting

Prior to the meeting, a request was received by the Legal Department to have this item Laid Over to the June meeting.

A **MOTION** was made by Dennis Olson to **LAY OVER** the Special Use Permit for the operation of a sexually-oriented bookstore business in a C-3, General Commercial Zoning District at 280 North Phelps Avenue, Unit E. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 7-0.

ZBA 010-10

Applicant
Ward 5

621 Kishwaukee Street

Martin Arteaga/Mayra Fernandez/Mario Hernandez

Variation to change the minimum requirement of 13.3 parking spaces per every 1,000 square feet to allow for expansion of the restaurant from the required 52 parking spaces to 32 parking spaces in a C-2, Limited Commercial Zoning District

Laid Over from April and May meetings

The subject property is located 112 feet south of College Avenue on the northwest corner of Kishwaukee and Union Streets and is currently a restaurant with adjacent vacant tenant space. At the April meeting, the Board felt that the site plan submitted was not sufficient for two-way traffic and there was no exit at the rear of the lot. The Board chose to Lay Over this item to the May meeting to allow the Applicant to work with Staff on a more feasible plan. The Applicants were in attendance at the May meeting and requested another Lay Over.

Attorney Andrew Vella, Mayra Fernandez, and Maya Arteaga were present. Attorney Vella explained the Applicant's are wanting to expand their restaurant to increase kitchen space, storage, and bathroom area. Most of their business is for pick up. He presented an agreement with A & T Auto Sales, 902 Kishwaukee which is three blocks away, to allow 20 parking spaces from 4:00 PM and later. The Applicants stated they could use these for employee parking which would create additional parking for their customers at the actual business location. Attorney Vella explained the expansion is into an existing empty tenant space. Mr. Cagnoni stated the reason the parking has become an issue is that the empty tenant space was originally a retail use and would use less parking than the restaurant use. He expressed that the parking agreement location may not be feasible because of the distance from the Applicant's restaurant, particularly in the winter. Mr. Cagnoni further stated Staff felt the parking plan still needed some work. Through her interpreter, Ms. Fernandez stated that they are not filling their parking lot now. Ms. Arteaga explained they will only be adding 1 dining table with this expansion.

Mr. Cagnoni verified 52 parking spaces were required for the entire strip center, 32 of which are for the restaurant. If the Applicant is not actually increasing the number of customers coming into the business, this may be appropriate. Mr. Cagnoni stated Staff would be comfortable with approval of this request. Martin Arteaga, Co-Applicant and contractor of the project, explained that he drew the plans to save expense for the Applicant. Their intent was to expand the space between the tables to allow greater comfort for their customers. As such, they would only be adding one table for customers which should not show an increase in parking needs.

The Board felt comfortable with approving this application and adding a condition to limit capacity to that as provided by the Applicant.

A **MOTION** was made by Scott Sanders to **APPROVE** the Variation to change the minimum requirement of 13.3 parking spaces per every 1,000 square feet to allow for expansion of the restaurant from the required 52 parking spaces to 32 parking spaces in a C-2, Limited Commercial Zoning District at 621 Kishwaukee Street with added condition 1. The Motion was **SECONDED** by Julio Salgado and **CARRIED** by a vote of 7-0.

Approval is subject to the following conditions:

1. Seating capacity of the restaurant shall not exceed that of the capacity provided on the approved submitted site plan.

ZBA 010-10
Findings of Fact for a Variation
To Change the Minimum Requirement of (13.3) Parking Spaces
Per Every 1,000 Square Feet to Allow for Expansion of a Restaurant
From the Required 52 Parking Spaces to 32 Parking Spaces
In a C-2, Limited Commercial District at
621 Kishwaukee Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.

3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

With no further business to come before the Board, the meeting was adjourned at 7:45 P.M.

Respectfully submitted,
Sandra A. Hawthorne, Administrative Assistant
Zoning Board of Appeals